To the Editors of the National Intelligencer

SOME STRICTURES

with the respects of the Author.

ON AN

ACT TO PROVIDE A NATIONAL CURRENCY,

Secured by a Pledge of United-States Stocks;

AND

TO PROVIDE FOR THE CIRCULATION AND REDEMPTION THEREOF.

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NOTE.

The following short articles were written for publication in a daily newspaper in Boston, in the hope of attracting attention to a subject, which, for some cause, had failed to excite the interest which its very great importance seemed clearly to demand. It has been thought, by some who have read them, that they should have a more general circulation; and they are, therefore, republished in the present form. The writer holds himself responsible for the strict accuracy of his facts and citations. For the correctness of his reasoning and conclusions, he submits himself to the judgment of the intelligent and careful reader of the Act of Congress.

Boston, Dec. 1, 1863.

NATIONAL BANKS.

I.

JULY 25, 1863.

I HAVE been greatly surprised that the Act of Congress passed at the last session, authorizing the establishment of banking associations, has excited so little attention; for, in my opinion, it is one of the most important which have passed that body since the adoption of the Constitution. If I do not greatly err, it is fraught with consequences of good or of evil to the country, which deserve the most serious and deliberate consideration. If it shall be honestly and intelligently used for the sole purpose of promoting the object for which it was professedly formed, — "to provide a national currency," — I think I can see that it will be productive of "much good;" but if it shall, on the other hand, at some time in the future, more or less distant, be abused for party-purposes, — a supposition not entirely incredible to those of us who have witnessed for the last thirty years the influence of party-politics on legislation, — I think I can foresee, that it may prove a calamity greater even than the civil war under which we are now suffering. Armed rebellion can be put down by physical force; but how shall we effectually guard against the insidiously corrupting influences of the money-power? The late Bank of the United States was refused a re-charter, on the ground, whether real or pretended, that it was an institution dangerous to the liberties of the people. The machine which it is now proposed to put into operation is one of tremendous power; and, in order to do its work safely and well, must be worked by honest as well as capable hands.

But I do not propose to discuss the political bearing of the Act, but simply to call attention to a few of its provisions, which seem to me so clearly defective as to call for amendment, before the Act can be acceptable to those who are seeking a safe and reasonably profitable investment for their money: —

1. In the first place, the Act, as it strikes my mind, creates no fair bargain between the parties: it is obviously *one-sided*. If it shall be extensively adopted, it is very clear that the United States will be a great

gainer; but it is not equally clear that the associations formed under it may not be serious losers. The Act is merely permissive: "Associations for carrying on the business of banking may be formed," &c., on certain conditions, which may appear to some minds to be decidedly onerous: but even these conditions are not fixed for any time certain, but may be changed at the will of one party, without the consent of the other; for, by the last section, "Congress reserves the right *at any time* to amend, *alter*, or repeal this Act."

2. Again: while Congress reserves for itself *alone* the right to change the original character of the contract (if contract it can be called), to impose new duties and obligations, as the case may be, according to the varying judgment or caprice of the majority in Congress for the time being, no mode has been provided by which the associations can protect their own interests. Whatever additional burdens may be imposed upon them, they have no means of escape, so far as I can discover, until the full term named in their articles of association shall have expired. They have not the rights of tenants-at-will; for, though they may be turned out at any moment without notice, they cannot quit, however anxious the associates may be to do so. Our State banks may close their business, whenever a majority of the stockholders so decide, in the manner prescribed by the statute; but I can discover no such authority in the Act of Congress. Associations may be formed for any term of years, not exceeding twenty from the date of the Act, as the associates may agree; but having once agreed, and forwarded their articles of agreement to the Comptroller of the Currency, they are bound to hold on for the term named, however unprofitable they may find the prosecution of the business. I think Congress rightfully reserves to itself the power to amend and even repeal the law; for it may not, after all, work well: but surely the associations should also have the right to retire from the business, whenever they find it can no longer be continued with reasonable success, or, as it possibly may be, without absolute loss.

3. Every association, before commencing business, is required to transfer and deliver to the Treasurer United-States bonds, bearing interest, to an amount NOT LESS than one-third of its capital stock, to be by him safely kept, &c., for ninety per cent of the market-value of which the association shall be entitled to receive circulating notes; and the entire amount of circulating notes to be issued under the Act is limited to *three hundred millions of dollars*. This is a very large sum, and one-third of its capital is a large amount for a banking association to put out of its own custody. Who is to be responsible for its safe keeping? and, in case of loss by the embezzlement or negligence of those having it in charge, who shall bear the loss? I find provision made for fire-proof vaults; for certificates to be signed by cashiers of associations; bonds to be given by the Comptroller and his assistants; books of record of transfers; annual examinations, by the President or Cashier of every association, of its bonds in the possession of the Treasurer, &c.: but it is nowhere provided in the law, as far as I can find, that the United States shall be responsible for the acts of

the officers of their own appointment. Individuals are bound by the acts of their agents or servants within the scope of their authority: why should not the United States be held responsible in this case? The Government, if nobody else shall make money, will receive a large revenue from the associations, besides other very important advantages: why, then, should not the Government, in common justice, like any other pledgee, be held responsible for the safe keeping of the property intrusted to its care?

II.

JULY 29.

I NOW proceed to notice some other provisions in the Act of Congress authorizing associations for banking purposes, which appear to me to require amendment, before capitalists will be likely to avail themselves of that mode of investment.

The *name*, — a matter, some may think, of little consequence; but others, I am pretty sure, will consider it of very great importance.

The only provision in the Act on this subject is contained in section six, as follows: "Persons uniting to form such an association, shall, under their hands and seals, make a certificate, which shall specify, first, the name *assumed* by such association."

This seems clear enough. The selection of the name by which they shall be known is left to their own good judgment and taste. Not so, however, says the Comptroller of the Currency; for in a circular issued by him, containing directions for the formation of associations, he puts them all upon a procrustean bed of his own making, and contracts or stretches them into the uniform name of National Banks, distinguished from each other only by the numeral adjective prefixed, — first, second, third, and so on, like the streets in some of our large cities.

The Comptroller has evidently assumed a power to *impose* the name which the law has not committed to him; but inasmuch as some may think, that, if he had the right, he has done wisely in thus exercising it, I will state a few objections to the use of a common name.

I am sure that bank-officers, brokers, and others, who have occasion to count up and distribute large amounts of bills in their daily business, will find a common name a very great inconvenience, to say the least of it. All the bills of all the banks of a given denomination, as I understand it, are to be printed from a single plate, with special dies for the number of the bank and the place of business. The number, of course, must be on the left, and the place of business on the right, of the bill. The operation of counting and

assorting, therefore, cannot be done in the usual way; for, if the count is made with the right hand, only the place of business will appear; and if with the left hand, only the number of the bank: so that, in the distribution of bills, each will have to be taken up by itself, and examined separately. This may seem a very trivial objection to the uninitiated; but those who perform this kind of work will entertain a different opinion. Again: most of these institutions, it is to be hoped, will be well managed and safe; others, unless a great change for the better shall take place, will certainly be mismanaged, *and will fail*. But how many of the multitude, who have bills in their pockets, can remember whether it is thirteen or twenty-three, or any other number, which has stopped payment? or who, with this common designation, will be likely to know that number fourteen, or any other of the whole list, is sound, though only number thirteen has failed? The consequence of a single failure will be to throw discredit, with the multitude, upon all; and there will be a general demand for coin in exchange for bills.

But again: Massachusetts has had experience in the use of a common plate, and abandoned its use, as I think, for good reasons. I have no belief that the Comptroller of the Currency will be able to furnish a better specimen of engraving than we formerly had in the Perkins plate; and yet, as I have said, that was given up, because it was, after repeated trials, at last so perfectly counterfeited, that none but a carefully educated eye could detect the difference between impressions from the counterfeit and the true plate. Now, suppose we should have in Boston alone forty National banks (we have more than that number of State banks now here), and an accomplished workman sets himself to work to produce a counterfeit, and succeeds in making a really good imitation. It will be borne in mind, that the bills of all *these* banks, if the Comptroller's decision is the law, will be identically the same, with the exception of the number; and this will be provided for by a changeable die. Bills of all these banks are struck off, and those of No. One are put in circulation. After some thousands of dollars have been passed off, the fraud is detected, and the public warned to beware of counterfeits of Bank No. One.

While attention is directed particularly to the bills of No. One, the rogues are quietly passing off counterfeits of Bank No. Ten; and so on through the whole list. With the strong temptation presented by a single plate, with a common name, may not all I have supposed come to pass? — nay, will it not, in all human probability, come to pass? And will not the public be likely to say, that, with so much uncertainty as to what are true and what are false, we will have nothing to do with any of the bills? I have supposed the case of a single city: but, if the bill shall meet with general favor, there will be hundreds, perhaps thousands, of these institutions scattered all over the country; and, of course, the temptations to fraud increased in proportion to the number. Though I do not claim to be able to look farther than my neighbors into the future, I venture to predict, that if the Comptroller's plan of a common name shall be adopted,

the country will be so flooded with counterfeit bills, before five years have passed, that it will be abandoned as a disastrous failure.

Finally, I object to a common name, because, if it do not substantially prevent the adoption of the scheme of National banking institutions (to which, as I have said, I do not object, if properly guarded), it will certainly be a great obstacle in the way of its accomplishment.

A large amount of capital is now invested in State banks; and, if the Secretary of the Treasury can make it appear to them that it will be for their interest to become associations under the Act of Congress, his scheme will become a successful one: if it do not so appear to them, I am inclined to think that the scheme will be a failure.

We have in Boston (and I only speak of Boston because we are at home here) a large number of banks which have been in successful operation for ten, thirty, fifty years, and two whose charters bear date of the last century. They have passed through severe trials, and have come out of them all with a character unsullied by even a suspicion of wrong-doing. They are recognized as sound, well-conducted institutions, not only here at home, but throughout the whole country. Will they consent to give up all the advantages of the good names by which they have been known and honored, and be distinguished hereafter from all other associations *only* by a numeral adjective? I do not know; but I believe, not. The stockholders of one of the banks to which I have referred, have voted, as the papers have informed us, to organize under the United-States law; but, at the same time, they voted to retain their present corporate name.

III.

AUG. 1.

I NOW invite attention to sect. 12 of the Act to provide a National currency; which enacts, that "for all debts contracted by such association, for *circulation*, *deposit*, *or otherwise*, each shareholder shall be liable for the amount, at their par value, of the shares held by him, *in addition* to the amount invested in such shares." Our State law imposes a liability for the same amount on stockholders in banks incorporated by special act, but for the express purpose of securing the redemption of their bills; leaving it with depositors, and others who may deal with them, to judge for themselves which are most worthy of credit. In our general law authorizing the formation of banking associations, the payment of whose bills is secured by deposits for that purpose, there is no special provision on the subject; though I think the stockholders might be held individually liable to make good any deficiency, but certainly nothing more. The object of the Act of Congress is to provide a sound national currency by a pledge of United-States stocks, at not over ninety per cent of

their market value, and in no case over their par value. Such security ought to be sufficient for the redemption of the bills: at any rate, it is neither wise nor becoming, as it seems to me, for the Government, at the very outset, to manifest a distrust of its own promises. Holding its *own bonds* as collateral security, and with so wide a margin, too, for possible deterioration in their market value, why, in common fairness, should the stockholders, who will be, as they always are in such institutions, for the most part, women, guardians, trustees, charitable institutions, and the like, be required, in any event, to lose more than the amount of their original investment? Those who have moneys to deposit in bank, are, as a general rule, quite able to take care of themselves. Business-men do not ask nor want any special legislation by Congress in relation to their dealings with banks, any more than with individuals. Give them a sound currency, and then let them alone to manage their own business in their own way.

The 37th section puzzles me exceedingly. I thought, at first, that the provision to which I now call attention had crept in by some oversight; but I am not sure that it was not introduced designedly. The section provides that "no *such* banking association shall be the purchaser *or holder* of any portion of its capital stock (which I think is the correct principle), *or of the capital stock of any other incorporated company*," &c.; thus striking off at a blow a large class of the very best collaterals which a bank can possibly hold. I can hardly believe that such was the intention of Congress; but the language is too plain to admit of any other construction. I said in my first communication, that the Act struck me as being altogether too *one-sided;* and perhaps Congress really intended to confine the collaterals which a bank can lawfully take, substantially to public stocks, National or State; for little else is left (for a bank) worth holding.

The 41st section enacts, "that every such association shall at all times have on hand, in lawful money of the United States, an amount equal to at least twenty-five per centum of the aggregate amount of its *outstanding notes of circulation and its deposits.*" Mark the language, — not notes *in* circulation, but outstanding notes *of* circulation; that is to say, all the notes received from the Comptroller, and not destroyed, whether in circulation, or safely packed away in the vaults of the bank. A bank is first required to deposit bonds at ten per cent below their market value to insure the redemption of its bills; and then always to keep on hand, in lawful money, twenty-five per cent more for the same object. I see that some associations have been formed with a capital of fifty thousand dollars only. If the whole is deposited, the association at this time will be entitled to receive in bills of circulation about forty-eight thousand dollars; and this is as small an amount for doing business with as will be likely to yield a fair profit. But before it can issue, or in fact hold, forty-eight thousand dollars of its bills, it must get, somehow or other, twelve thousand dollars more to hold as a reserve: and I do not see how it can get this last-named sum, except by *borrowing it;*

and this may be a matter of some difficulty, inasmuch as it is forbidden to pledge its own bills as collateral security. I should be glad to have some skilful accountant look into the law, and cipher out the dividends which may be fairly expected from the stock.

And, in connection with this, I would ask gentlemen who are conversant with the principles of sound and safe banking to look at sect. 42, which *limits* the amount of the indebtedness of these associations. It provides, that no association shall at any time be indebted, or in any way liable, to an *amount exceeding its capital stock*, *except* on the following accounts: 1st, its notes of circulation; 2d, its deposits and collections; 3d, bills of exchange and drafts drawn against actual balances; and finally, on account of liabilities to its stockholders for money paid in on the stock, and dividends thereon and reserved profits. It seems, then, that a bank may be lawfully indebted on all the accounts for which any well-conducted bank ever is indebted; to wit, for circulation, deposits, outstanding checks, and to its stockholders; and, *in addition to all this*, to the amount of all its capital on some other account. What this other account may be, *excepting borrowed money*, I cannot conceive. Possibly Congress intended that those associations which invest the whole of their capital in stocks, in order to get their bills for circulation, should have the right to borrow an amount equal to their capital, so that they might have something to do business with.

The 46th section provides, that the rate of interest which may be taken or received shall be that established, in the absence of contract between the parties, by the laws of the several States in which the associations are respectively located, *and no more;* and the taking of more shall be a forfeiture of the *whole debt*. In this State, six per cent may be taken; in New York, seven; and in some of the Western States, a much higher rate; the duties, obligations, *burdens*, *being exactly the same on all*. To say nothing of the absurdity of making institutions created by one government, subject, so far as profits go, — and that is for their success or failure, — to the control of another government, the provision is most palpably unjust as between the stockholders in different States.

Why should New York be allowed to take seven, and Massachusetts banks only six, per cent, the Government all the time receiving the same revenue from the latter as from the former? Most manifestly, in common justice, the rate should be the same, or those banks which are compelled to take the lower rate should have some advantages, as an equivalent, over those authorized to take the higher rate. This difference in the rate of interest may be the exact difference between reasonable success and virtual failure. This same section authorizes the taking of exchange on *bills of exchange only*, and not on notes, as by our law; but inasmuch as balances are for the most part settled by notes, and not by bills, and it costs just as much to collect a note as a bill, why are notes excepted?

But I must stop. The briefest possible notice of all the imperfections of this Act would require more space than you have to spare

for this subject, and more patience, perhaps, than many of your readers might be inclined to exercise. It is overloaded with formalities (some of them worse than useless), which will be found not only troublesome in practice, but costly in execution; and it is, moreover, full of tautologies, crudities, and obscurities, which do little credit to the clearness of thought or to the literary skill of its author.

And finally, lest any one should suspect me of unfair criticism in the notices I have taken of this very important Act, I beg all, who may have taken the trouble to read what I have written, to examine it for themselves, not hastily, but carefully, section by section; and I entertain no doubt that all and each of them will come to pretty much the same conclusion that I have reached, — that, in its *present form*, it is not such as an intelligent Congress ought to have passed.

IV.

Oct. 29.

In about one month, a new Congress will assemble; and, a month later, the General Court of our own State will meet. In the mean while, shall any thing be said or done, and what, by those who take, or ought to take, an interest in the scheme of Secretary Chase for establishing National banking associations? It is assuredly a subject of deep concern to the people of the United States collectively, and it is especially worthy of the earnest and deliberate consideration of that large class of persons whose investments are chiefly in the stock of banks established under State laws. Eight months have elapsed since the passage of the Act. It has been published in newspapers and in pamphlet form; and yet I verily believe, that not one in ten of those who ought to have made it a careful study has done so much as even to read it through, up to the present moment. Are the three or four hundred bank-directors in Boston all asleep? or, if it so be that they feel little interest in the subject on their own account, have not the women and children, whose property — whose whole property, perhaps — has been committed to their management, a very deep interest in the matter? And are they not bound, in honor and conscience, to be able to give those women and children, who are so little qualified to take care of themselves, an intelligent account of the provisions of the Act, and of its probable effect on their means of living? Are these State institutions to be crushed under the mighty idol of the Secretary and his financial advisers, and the women and children, whose property is now invested in them, driven into new investments? or will they be suffered to live, and to furnish in future, as they have done heretofore, not only a sound currency for the people, and a safe and reasonably profitable investment for the stockholders, but substantial aid, in pressing emergencies, for the support of the credit of the

Government itself? Surely these are questions of importance enough to attract attention.

That it is the present purpose of the Secretary of the Treasury, and of the Comptroller of the Currency, to drive out of existence all State banks, I cannot doubt. Indeed, these officials make no secret of such intentions. The Comptroller, on his late visit to this city, as I am informed, openly and frankly avowed such to be their policy; and pressed upon the Presidents of banks, with whom he had asked a conference, whether the instinct of self-preservation should not induce them to wind up their State institutions, and organize at once under the United-States law. I know, too, that, in one case, the Comptroller has declined to furnish bills to a sound and good State bank, on a pledge of stocks such as the Act requires, on the ground that it was not his policy to encourage such a course on the part of State institutions. Indeed! What law has constituted either the Comptroller or the Secretary a judge of what is expedient in this matter?

In a communication published in your paper some weeks since, I pointed out another instance in which the Comptroller had undertaken, in his supposed supremacy of power, to overrule a clear provision of the law, by *imposing* a common name, with a numeral prefixed, whilst the law itself gives to the associates the right to *assume* (sect. 6) the name by which their association shall be known.

So, in this matter of furnishing bills of circulation to State banks, the Act (sect. 62) expressly, and in the clearest language, provides, that "any bank or banking association authorized by State law . . . may transfer and deliver to the Treasurer of the United States such bonds; . . . and, upon making such transfer and delivery, such bank or banking association *shall be entitled* to receive, from the Comptroller of the Currency, notes as herein provided," &c.

By what authority, I ask again, does this officer, appointed to execute a law of Congress, presume to nullify such of its provisions as he is pleased to consider inexpedient? The law is defective enough in all conscience, as any one will readily discover, who will take the trouble to read it, and must receive many important amendments before it can go into successful operation; but, still, where has the Comptroller obtained the authority to alter, or, if he is pleased to think so, amend, the law at his own sovereign pleasure, — Congress having specially reserved that right to itself alone?

I submit it, then, to all directors of banks, in this city and out of it, that there is something for them to consider *and to do* in relation to this subject. If the scheme is a good one in itself, let it be made as nearly perfect as possible. If amendments are required, let those who, from their position and experience, may be supposed to understand the subject, point them out, and endeavor to have them adopted. As the law now stands, I do not hesitate to say, that it holds out no sufficient inducements for our State institutions to organize under it. The stockholders had much better, in my judgment, invest the amount of their stock, each for himself, in United-States bonds, and hold them in their own possession, than to join in any association under

the law, *as it now stands*, with any expectation of realizing a larger income from the investment. In the former case, they will be sure of a certain income, if the Government does not fail to pay the interest: in the latter, they cannot, according to my best judgment, hope to receive more. I think they will receive less, and that by no means sure.

V.

Nov. 6.

THERE is a great deal of delusion current in the world about the business of banking. A bank is thought by many, perhaps by a majority of persons, to be a sort of machine for turning out dividends by some peculiar process, — a kind of mystery, which only the initiated do or can fully understand. Now, this is all a mistake. Banks deal in negotiable securities, which they buy and pay for with money, or with their own bills, which must be redeemed on demand. Merchants deal in merchandise, which they buy and pay for with money, or with their own promissory-notes, which must be paid at their maturity. The articles specially dealt in are different; but the principles on which the business is conducted should be the same. This further difference, however, may be noted here: the merchant may lawfully buy as cheap, and sell as dear, as he honestly can; while the banker is limited by law to a fixed profit. The banker buys notes, which he believes will be paid at maturity, at legal interest; and the merchant buys goods, which he expects to sell at a fair profit. A good merchant, therefore, if he will devote to the subject a proper degree of care and attention, will, as a general rule, make a good bank-director. The whole secret of good banking, then, consists simply in lending money on good security, at a rate of interest not exceeding that allowed by law; *being careful to keep at all times in reserve* enough of legal tender to pay all liabilities as they are presented. There is certainly no mystery whatever in the business.

I have said, in a communication recently published by you, that "the stockholders (in State banks) had much better, in my judgment, invest the amount of their stock, each for himself, in United-States bonds, and hold them in their own possession, than to join in any association under the (United-States) law, *as it now stands*, with any expectation of realizing a larger income from the investment."

Am I right in that opinion? I will endeavor to furnish some data from which an opinion may be formed; and perhaps a brief notice of the process by which one of our own State banks goes into operation, and gradually gets into good working condition, may throw some light on the question.

The stock of a new bank having been subscribed, and a charter obtained, the corporation is organized by the election of directors.

The directors proceed to secure suitable banking-rooms; to fit them up with fire-proof vaults, counters, desks, &c.; to purchase the necessary books; to appoint a cashier, and other officers; and to procure a supply of bills for circulation. The stock is then called in, and an examination made by commissioners appointed for the purpose; and, if they report that every thing required by law has been done, the bank is then ready to commence business. The directors proceed to discount, and, instead of paying out their coin on hand, pay out the bills of the bank, some of which will be returned the next day for redemption, and so on from day to day; and some of them will remain out in the pockets of the people, and constitute a part of the circulating medium of the country. Thus, from day to day, the cash capital will be reduced by the redemption of the bills. Prudent directors, particularly at the outset, will, of course, lend mostly on paper having short time to run, so that it may mature, and be paid to the bank, before its cash is exhausted. The vessel is now fairly on its voyage, having at first its cash capital, and then its notes maturing from day to day, for the redemption of bills; and may fairly be expected, with proper care on the part of its directors, to be able to weather any common storm.

Now, what should we think of the wisdom of a board of directors, who, at their first meeting for discount, should *lend the whole* of their capital, or even a large portion of it, on bond and mortgage, maturing at the same time with the expiration of their charter? Should we not think them, if we should not call them, either fools or madmen?

I return now to National banks, of which, according to a statement I saw in the "National Intelligencer" a few days since, eighty-four have been organized, with an average capital for each of about one hundred thousand dollars. Taking that average as a capital, let us see what dividends may reasonably be expected by the stockholders.

If the whole amount is invested in United-States bonds, and deposited with the Treasurer, the bank will be entitled to receive $90,000 in bills for circulation; and that amount, taking into account what must always be kept on hand to meet daily calls, would seem to be as small as a bank, even of that small capital, could well do business with. But where is the cash for their redemption when presented for payment? Every dollar of it transferred to the Treasurer, and to remain with him, — useless for all legitimate purposes of banking during the whole life of the association. Besides, the law requires twenty-five per cent ($22,500) of the amount of the bills thus received to be at all times kept on hand in the bank, "*in lawful money of the United States*," as a reserve for their redemption on demand; and the bank cannot legally make a loan, without having that reserve on hand. The machine then, after all, like many other new inventions, will not move. Again: suppose $80,000 to be deposited in bonds, and $72,000 received therefor in bills: the bank will then have the reserve of $18,000, and just $2,000 left as an active capital to use in the business of banking. If one-third only of the amount of the capital be deposited, — and that is the smallest amount allowed by the law,

— then only $30,000 of bills will be received, from the circulation of which no prudent man could possibly expect to realize more than enough to pay the expenses of carrying on the business.

"Ah! but the bills, when paid out, will remain out, and not be returned for redemption," I hear some over-sanguine man reply; and thus a capital will be created for the business. Some of them, unquestionably, will remain in circulation, and, to that extent, a fictitious capital will be created; but all of them will be returned at some time, and some of them daily; and a bank which relies for its stability on such a foundation will be liable to fail any day in the year. The fact is, the system is all wrong, excepting for banks of very large capitals, to which the permanent deposit of one-third would be a matter of little consequence. The *whole* business of a small bank, it is clear, must be done on borrowed capital, payable on demand; and the demand will always come, as all experience has shown, when it is particularly inconvenient to pay. A real *live* capital is the only foundation of a safe banking-business; a plain proposition, which legislators would do wisely to bear in mind. I do not take notice of the onerous duties and expenses imposed by the law upon those associations; because every prudent man will, of course, look to that matter before he invests his money in them.

There used to be, somewhere out West, — perhaps there are still, — institutions known by the name of "wild-cat banks." I never saw one; but I have always supposed they were dangerous creatures to deal with. It is not, of course, to be supposed for a moment, that the framers of the Act had any design to encourage the growth of the wild-cats; but I do aver and maintain, that, if they had had that specific object in view, they could have hit upon no plan better calculated to effect that object than that which is contained in sect. 20. It is there provided as follows: "And the same" (to wit, the bills of any such National bank) "shall be received at par in all parts of the United States in payment of taxes, excises, public lands, and all other dues to the United States, except duties on imports; and also for all salaries and other debts and demands owing by the United States to individuals, corporations, and associations within the United States, except interest on public debt."

Now, some enterprising gentlemen from Wall Street or State Street are anxious to establish a National bank in some good locality; and, casting about for it, they can think of none better than the beautiful country of the Sierra Nevada in California. That place is accordingly selected, not only because it is easy of access, but because it is to be the centre of a large and flourishing business. The capital is invested in bonds, the deposit made, and the bills received and duly signed by the President and Cashier, and every thing ready for the commencement of operations. Instead, however, of putting them into circulation in the Sierra, very likely they would be sealed up and sent to New York, where there are always debtors to the United States, who could use them without trouble. They are passed to the Government, and then the Government pays them out to some cre-

ditor of the United States. But what is the poor creditor to do with them? Why, he can send them to the Sierra for collection in lawful money; or he can hold them until he has an opportunity to pay them back to the Government for "taxes, excises, public lands, or other dues;" or he can sell them to a broker for what he can get, to be again paid to the Government, and then again paid out to some other unfortunate individual; and so on in a circle, until not a rag of them is left.

And now, I ask, is this really the *sound* currency which the Government proposes to furnish to the people? The question is one of deep interest to all existing banks which are supposed to be large creditors of the United States, as well as to individuals. Are certificates of indebtedness, certificates of deposits, and the recent loan on Treasury notes, principal and interest, to be paid in the bills of National banks located in Minnesota or Michigan or Oregon, or any other place within the limits of the United States? The law says, these bills *shall pass everywhere, in all dealings with the Government*, as *money*. Mark the result, not conjectural, but certain: the great centres of trade will be flooded with a depreciated currency; while bank-bills issued from those centres, being worth a premium, will be forthwith returned for payment.

I do not know who was the father of the bill; but we all know Mr. Secretary Chase stood as its god-father. Does he propose to carry out its provisions fairly and squarely? Does he propose to pay to creditors of the United States what they cannot use in payment of their own debts? If he shall do so, I hope he does not need to be told that he will embarrass the whole trade of the country, and that his favorite currency, instead of being a blessing, will be an unmitigated nuisance. He cannot repeal the laws of trade. He cannot, nor can any earthly power, not even the Congress of the United States, make a bank-bill, redeemable in New Mexico or Utah, of as much value to a merchant of Boston as one for the same amount payable in State Street.

VI.

Nov. 20.

In a communication published in your paper on the 25th of July last, I animadverted on the provisions, or rather want of suitable provision, for the safe keeping of the stocks required to be transferred to the Treasurer of the United States, by associations organized under the "Act to provide a National Currency." I contended, and I now maintain, that inasmuch as the Government will derive a large annual revenue from these banks, in addition to the not less, perhaps, important collateral advantage of having a very large amount of bonds withdrawn from the market for a term of years, common jus-

tice, in accordance with the principles of the common law, requires that the United States should be directly responsible for their safe keeping; that they should be liable, like other principals, for the acts of their own servants; that they should be holden, like any other pledgees, or bailees for hire, for the return of the bonds, when the conditions of the pledge were performed. Who will controvert the soundness of that doctrine? But that is not the point to which I now invite attention.

In a subsequent communication, after having pointed out sundry glaring defects in the Act, I characterized it as overloaded with burdensome formalities, some of which were worse than useless; and so full of crudities and obscurities, as to do little credit to the clearness of thought or to the literary skill of its author; and added, that it was such an Act as an intelligent Congress ought never to have passed. Since the above was written, I have examined it somewhat more carefully; and I now pronounce it to be the most slovenly legislative Act, which, as far as my memory serves me, I was ever obliged to read, and endeavor to understand. And let it be borne in mind, that it is not an Act of little consequence, in which some small mistakes might be pardoned, but one of vast moment, inaugurating an entirely new policy with regard to the circulating medium of the country, which is the very life-blood of its trade.

Having ascertained satisfactorily, that the United States had no intention of assuming the responsibility of the safe keeping of the bonds required to be deposited, but would appoint the agents who should have the charge of them, and would not be answerable for their good conduct, I was led to examine farther, and see if I could learn what security the banks would really have, that their property would not be lost through the negligence, or misapplied through the fraud, of those appointed to watch over it.

I found that the Comptroller was required to give bonds in the sum of a hundred thousand dollars, and his deputy in half that amount; and the sum of the two is just five mills on the dollar for the aggregate amount of bills which may be issued under the law. Very small collateral security, certainly. I found also, that, once at least every year, the president or cashier of every banking association, either in person or by special attorney, must repair to Washington, and there see for himself whether his bonds are actually in the possession of the Treasurer at that particular time, and, if so, give a certificate to that effect. Well, he finds them all safe, and gives the Treasurer a certificate of good conduct, and goes home. But does this examination on one day in the year afford much security that they will remain in the actual custody of the Treasurer during the other three hundred and sixty-four days of the year? It will be agreed, I suppose, that this provision, if carried out, will cause considerable expense, as well as trouble; and that, so far as security goes, it may be set down as very nearly worthless.

I found (sect. 15) that every bank, before commencing business, must transfer to the Treasurer bonds to an amount not less than one-

third of its capital stock, to be by him safely kept in his office; and again (sect. 21), a repetition of the same provision, with the addition, that all such transfers shall be made, "with a memorandum, written or printed on the certificate of such bonds, and signed by the cashier," &c. What, in the name of wonder, is the *certificate of* such bonds? Whose certificate? to whom given? and for what? I can only guess that the writer intended to provide (what nobody ought to have any difficulty in saying) that there should be written or printed on the back of each bond a memorandum, stating the object of the deposit. The same section goes on to provide, that no transfer of such bonds by the Treasurer shall be valid, "unless sanctioned by the order or request of the Comptroller," and that the Comptroller shall keep a record of all such transfers. When such order or request is made by the Comptroller, the Treasurer has no authority given to him to inquire into the reason, nor to refuse to obey the order for want of good cause. The Treasurer, then, has the custody of the bonds, until the Comptroller sees fit, with or without cause, to withdraw them. But again: the next section (22) provides that it shall be the *duty of the Comptroller to countersign* and enter in the book (to wit, the book of record referred to in the previous section) *every transfer* or assignment of any bonds held by the Treasurer, *presented for his signature*. So it would seem that the Treasurer, too, has unlimited control over the bonds, and may lawfully demand the countersignature of the Comptroller, whenever such is his pleasure. That this must be so, I infer from the fact, that the Comptroller had already been required, in the previous section, to keep a record of all bonds transferred by *his* order or request. The section then goes on to provide, that the Comptroller shall have access to the *books* of the Treasurer, "for the purpose of ascertaining the correctness of the transfer or assignment presented to him to countersign." What books? The bonds are to be kept in the office of the Treasurer; but, as far as I can discover, the law nowhere requires him to keep any record of them, or to keep any books whatever about them!

Running the eye along, we come to the case of a bank *failing* to pay its bills; and, by sect. 28, the Comptroller may "sell at private sale any of the stock so *transferred to him by such association*." When, how, where transferred to *him* by such association? We have seen that *all* transfers shall be made to the Treasurer, with a memorandum, and that the bonds shall be kept in his office. How, then, are they found in the possession of the Comptroller, with an assignment from the association?

Passing on to the thirtieth section, we there find the bonds back again in the custody of the Treasurer, to be held exclusively for the security of its circulating notes, "except as provided in this Act." What is provided in the Act? Why, as has been shown, the Treasurer is obliged to transfer them on the order of the Comptroller; and the Comptroller is obliged to countersign all transfers presented for that purpose by the Treasurer, without authority, on the part of either, to call in question the correctness of the procedure! Have I designated

the Act aptly in calling it *slovenly?* I submit the question to the judgment of the intelligent reader.

The sections to which I have now called attention were doubtless intended to guard against the fraudulent transfer of the bonds, by making the Treasurer and Comptroller a check upon each other; and it would seem as if there ought to be no difficulty in making such provision in few words and in clear terms. How that object has been accomplished, I have endeavored to point out. Under the present law, there is no *legal* check whatever. On the contrary, two persons, yes, three (for the Deputy has the power of the Comptroller in the absence of his principal), appointed to office from time to time by the political party in power for the time being, have each an entire control over all the bonds deposited for the redemption of the bills, — the Comptroller having the legal right to order the Treasurer to transfer, and the Treasurer having the same right to demand the counter-signature of the Comptroller; and any bonds, however fraudulent the transfer on the part of those officers, or either of them, found in the possession of an honest holder, with all the formalities required by the law, would be adjudged to be his property by every court of law or equity in the country.

And what shall Congress do about such a law? If a plain man, who has no interest in the subject beyond that of everybody else in this community, may be allowed to volunteer advice, I should say, Repeal the whole law, and begin again at the beginning, and let us see if a new bill cannot be framed which will be more worthy of a subject-matter of such transcendent importance.